

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3067
)	
v.)	
)	
GARY ZIERKE, JR.,)	MEMORANDUM
)	AND ORDER
Defendant.)	
)	

The United States has filed a notice (filing no. 313) noting the Supreme Court's decision in *Beckles v. United States*. The United States further asserts that the holding in *Johnson*, therefore, does not apply to the Guideline issues raised by the defendant in this case. Accordingly,

IT IS ORDERED that:

- (1) If the defendant disagrees with the government, the defendant shall file a notice of disagreement together with a supporting brief no later than April 3, 2017.
- (2) If no notice of disagreement and brief are filed by the defendant, the pending § 2255 motion in this case will be dismissed without prejudice.
- (3) If a notice of disagreement and brief are filed by the defendant, I will issue a decision determining whether *Beckles* is dispositive.

DATED this 24th day of March, 2017.

BY THE COURT:
s/ *Richard G. Kopf*
Senior United States District Judge